



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R10-OAR-2021-0950, FRL-9395-01-R10]

#### Air Plan Approval; ID, Incorporation by Reference Updates

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) proposes to approve an update to the Idaho State Implementation Plan (SIP) submitted on October 12, 2021. The submission updates the incorporation by reference of the national ambient air quality standards (NAAQS) and other Federal provisions into the Idaho SIP as of July 1, 2020. Idaho undertakes regular updates to ensure State air rules and the SIP remain consistent with Federal air program requirements.

**DATES:** Comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R10-OAR-2021-0950, at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from <https://www.regulations.gov>. The EPA may publish any comment received to its public docket. Do not electronically submit any information you consider to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on

making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Kristin Hall, EPA Region 10, 1200 Sixth Avenue, Suite 155, Seattle, WA 98101, at (206) 553-6357 or [hall.kristin@epa.gov](mailto:hall.kristin@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, the use of “we” and “us” is intended to refer to the EPA.

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### **I. Background**

Section 110 of the Clean Air Act specifies the general requirements for states to submit SIPs to attain and maintain the NAAQS and the EPA’s actions on such submissions. To efficiently adopt and implement the NAAQS and related requirements, Idaho incorporates certain Federal regulations by reference into the Idaho air rules (IDAPA 58.01.01) at IDAPA 58.01.01.107.03 *Incorporation by Reference*. Idaho then submits some of those provisions to the EPA for approval and codification into the Code of Federal Regulations (CFR) at 40 CFR part 52, subpart N (Idaho SIP). When Federal regulations are revised, Idaho updates the date by which the regulations are incorporated by reference and submits the updates to the EPA for approval.

### **II. Evaluation**

The current Idaho SIP incorporates the following regulations by reference, as of July 1, 2019, at IDAPA 58.01.01.107.03, paragraphs a through e:

- National Primary and Secondary Ambient Air Quality Standards, 40 CFR part 50;
- Requirements for Preparation, Adoption, and Submittal of Implementation Plans, 40 CFR part 51, with the exception of certain visibility-related provisions;
- Approval and Promulgation of Implementation Plans, 40 CFR part 52, subparts A and N,

and appendices D and E;

- Ambient Air Monitoring Reference and Equivalent Methods, 40 CFR part 53; and
- Ambient Air Quality Surveillance, 40 CFR part 58.

On October 12, 2021, Idaho submitted updates to the SIP to incorporate these regulations by reference as of July 1, 2020. Between July 1, 2019 and July 1, 2020, most of these incorporated Federal regulations did not change. However, the EPA did revise 40 CFR part 52 subpart N to approve three Idaho SIP revisions. See 84 FR 45918, September 3, 2019; 84 FR 67189, December 9, 2019; and 85 FR 9664, February 20, 2020. In addition, the EPA revised 40 CFR part 58 to delay the implement of revised photochemical assessment monitoring systems. See 85 FR 834, January 8, 2020.

After reviewing the submitted updates, we have made the preliminary determination that the updates are consistent with Clean Air Act requirements.

### **III. Proposed Action**

The EPA proposes to approve and incorporate by reference the updates to the Idaho SIP submitted on October 12, 2021. Upon final approval, the Idaho SIP will include IDAPA 58.01.01.107.03, paragraphs a through e, State effective June 17, 2021, which, as discussed in section II of this preamble, incorporate by reference the specified Federal regulations as of July 1, 2020.

### **IV. Incorporation by Reference**

In this document, the EPA is proposing to include in a final rule, regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the provisions described in section III of this preamble. The EPA has made, and will continue to make, these documents generally available through <https://www.regulations.gov> and at the EPA Region 10 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

## **V. Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of the requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rulemaking would not apply on any Indian reservation land or in any other area in Idaho where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule would not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: March 15, 2022.

Michelle L. Pirzadeh,  
Acting Regional Administrator, Region 10.

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